

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**WANDA CONNER, Individually and as the
Representative of the Wrongful Death Beneficiaries
of TERRY MARCHBANKS**

PLAINTIFF

VERSUS

CAUSE NO. No. 4:06-CV-080-WAP-EMB

HARDWARE DISTRIBUTION WAREHOUSES, INC.,

DEFENDANT

ORDER

BEFORE THE COURT are Plaintiff's Motion to Compel Production of a Piece of Skylight [doc. 67] and supporting Memorandum [doc. 69], Defendant's Response in opposition [doc. 72] and Plaintiff's Rebuttal brief [doc. 83]. Having duly considered the submissions of the parties and the record, the Court is of the opinion that Plaintiff's Motion should be denied.

First, Plaintiff's Motion is untimely. Second, Plaintiff's expert has already inspected the roof and can give testimony regarding what he saw. Third, Plaintiff's motion was filed after Defendant filed its motion for summary judgment. Untimely motions of this sort, filed at this stage of the proceedings, are not favored and are rarely allowed to interfere with the Court's consideration of the motion for summary judgment. Accordingly, Plaintiff's Motion is hereby **DENIED**.

SO ORDERED this, the 6th day of July, 2007.

**/s/ Eugene M. Bogen
U. S. MAGISTRATE JUDGE**